Testimony on House Bills ~~5437~~-5444

SB 892-896

Before the House Committee on Families and Human Services

December 7, 2005

Amendments to the Social Welfare Act

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Chairman Stahl and members of the committee, my name is Terri Winegarden and I am a staff attorney with the Center for Civil Justice (CCJ), a non-profit law firm representing low income clients in a 14-county region of mid-Michigan and the Thumb, including the urban areas of Saginaw, Flint, and Bay City, as well as surrounding rural areas such as Isabella and Lapeer counties.

In addition to our direct legal representation of low income individuals and families, CCJ meets regularly and works closely with private, non-profit human services providers throughout our service area, including faith-based organizations and the myriad of other agencies that work to assist parents who are trying hard to maximize their potential for self-sufficiency, and that also attempt to fill the gaps when low income families lack the resources to make ends meet.

I appreciate the opportunity to comment on the Senate welfare reform proposals. The appendix to my written testimony includes detailed suggestions for amendments to the current Senate and House Bills. That appendix highlights portions of both bills that we feel are worth incorporating into the other chamber's bills, as well as some of our general recommendations for improving the overall package. Today, I would like to focus on some of the Senate provisions that we feel are particularly important to incorporate into any final legislation.

Positive provisions of the Senate Bills

We are pleased with these provisions of the Senate Bill and request that the House adopt these provisions as well:

1. Time Limits

We strongly oppose the imposition of time limits because everyone receiving assistance in Michigan is either unable to work or actively engaged in finding, or preparing for, gainful employment. As we have testified previously, we believe that time limits are unduly harsh for families trying to survive in Michigan's cyclical economy (which is also currently in a difficult transition from a manufacturing based economy). If the legislature nevertheless moves forward with time limits, it is critical to have provisions that stop the clock or extend benefits in appropriate cases.

The Senate has moved in the right direction by including an extension of time limits for families meeting their requirements as outlined in their Family Independence Plan. SB 893 *amending* MCLA 400.57g(8). However, the Senate bill limits the extension to 12 months and does not stop the clock for all months in which the recipient is complying with Work First placements but nevertheless unable to earn enough to support their family without assistance.

- Parents who are "playing by the rules" and doing what is required should not be precluded from receiving assistance because of depressed labor conditions.

2. Compliance and Sanctions

The Department of Labor and Economic Growth or the Work First contractor, rather than the Department of Human Services, should monitor compliance with work-related activities in the Personal Development Plan. SB 892 *amending* MCL 400.57e(2).

- HB 5444 requires DHS to monitor compliance the family's with the Personal Development Plan. However, the work related activities should be assigned and monitored by the Work First Agencies.

The Department of Human Services and Work First caseworkers should be required to meet with each other and consult with the recipient when sanctions are being imposed. SB 894 *adding* MCLA 400.57d(8).

- Communication between the two agencies is critical to accurate assessment of whether recipients have good cause for noncompliance, and to the consistent and appropriate imposition of sanctions. Final legislation should go further, making it clear that Agencies and recipient should be required to communicate and confer **before** sanctions are imposed, to assure an accurate assessment of whether there was non-compliance and good cause factors. *(CCJ suggested language is at p. 32-33; MCLA 400.57g(4)(b) as amended by SB 893 and HB 5441)*

3. Education and Training

Recipients should be encouraged and allowed to attend literacy programs and English as a Second Language classes even if the programs are not, strictly speaking, "occupationally relevant," and the **agencies should be permitted to assign recipients to such programs – as well as to GED or high school completion programs – when they are not employable because of low skill levels or lack of basic credentials.** SB 892 *amending* MCLA 400.57f(2)

- Basic and remedial programs may not initially be "occupationally relevant" for a job but may be a barrier for the individual to advance in the job or find another job later if needed. Basic skills helps individuals become self-sufficient for a lifetime not just to meet an immediate need.

The Work First agency should have discretion to determine GPA and attendance requirements for each participant and should be required to write them into the recipient's individualized Plan is excellent, rather than setting requirements in statute. *SB 892 amending MCLA 400.57f(5)(A) & (B).*

- While it may make sense to legislatively mandate "adequate progress" by recipients who attend education and training, the agencies should be able to work of\ut the specific requirements for an individual's particular s\circumstances and course of study.

4. Work First Exemptions for victims of domestic violence

Victims of domestic violence should be exempt from Work First when the effects of the violence prevent them from successfully participating. SB 892 *amending* MCLA 400.57f(4)

- An exemption for families who are suffering the effects of domestic violence are appropriate to allow families the time to ensure that the family is in a safe and stable environment before being required to enter the workforce.

5. SSI Recipients Should Not Be Included in the FIP Group

We are pleased that the Senate does not require SSI recipients to be included in the FIP group. We strongly oppose the House proposal (MCLA 400.57b (3) in HB 5439)to include SSI members in the FIP group (and counting their income toward others). It places parents in a position where they could be forced to mis-spend funds intended for a child with disabilities, in violation of federal law, and punishes children whose parents are unable to work because of severe disabilities. Federal law regarding the use of SSI is distinctly different than the law for Social Security benefits. While Social Security may be used for other family members, federal law requires that SSI be used only for the recipient. Parents who receive SSI for a disabled child are subject to prosecution for fraud if they use the SSI to purchase clothing, food, or other items for other children in the home.

Other provisions that should be included in the final bill

a. Screening and Assessment (HB 5437 amending MCLA 400.57a(4) and SB 894 amending MCLA 400.57d(2); also HB 5444 amending MCLA 400.57d(1) and e(1).)

We recommend incorporation of the HB 5437 amendment to MCLA 400. 57a(4), which requires an **up-front assessment of whether the recipient is exempt from Work First.** We have also suggested language changes to SB 894's version of MLCA 400.57d(2), which in part incorporates language from the House Amendments to MCLA 400.57(e). These changes make it clear that **DHS will screen for psycho-social barriers and Work First will screen for educational barriers and strengths**. The proposed language changes also ensure that the Department of Human Services and Work First Agencies **work together in developing a plan to address barriers and goals** in the Family Independence Plan, and that the **agencies' responsibilities are included in the plan**. HB 5444 versions of MCLA 400.57d(1) and 400.57(e)(1) are generally very good on this point.

We recommend that the final language not refer to orientation as "joint" because it is more efficient in many cases for DHS caseworkers to do one-on-one individual orientations at the time of application.

b. Work First Exemptions for SSI Applicants with Medically Documented Disabilities Should Be Maintained (HB 5438 and SB 892 amending MCLA 400.57f)

SSI Applicants who are not automatically exempt from the Work First program should not be prevented from having a deferral during an appeal to an Administrative Law Judge. The House language makes it clear that exemptions are not automatic, but does not foreclose exemptions while an applicant is appealing to the Judge. The HB 5438 approach of requiring medical documentation of disabilities and not allowing an AUTOMATIC exemption for applicants is a better approach than SB 892, which would deny exemptions to individuals with demonstrated disabilities who are appealing an SSI denial.

Given the 60% reversal rate on appeals, it is clear that many persons with disabilities are improperly denied SSI.

c. Voluntary Referrals for Disability-based Exemptions (One word change in HB 5438 amendment of MCLA 400.57a(4); and HB 5444 amendment to MCLA 400.57(e)(1))

Under the Americans with Disabilities Act individuals who have disability-based exemptions from Work First should not be denied an opportunity to voluntarily participate and benefit from services available to persons without disabilities. Thus, individuals who are not required to participate in Work First must still be given the opportunity to voluntarily participate in the program.

d. Time limits

We oppose time limits, but if they are imposed,

Additional provisions that should be included in HB 5438 amending MCLA 400.47a(4); HB 54445 creating a new MCLA 400.57m, and SB 893 amending MCLA 400.57g:

- **Don't time limit children's benefits.** Federal TANF funds may be used to continue benefits to children beyond the 60 months allowed for most parents. Any final legislation should explicitly provide that children who are not subject to Work First requirements are not subject to time limits.
- **Take full advantage of the 60 months of available funding for assistance under federal law.** The vast majority of other states that apply time limits have chosen to provide the full 60 months allowed under federal law. Michigan should do the same.
- **Stop the clock for months in which unemployment is high.** For administrative ease, months should not be counted when the federal government has waived time limits for Food Stamps because of high unemployment or labor surpluses.
- **Stop the clock for months in which the recipient is employed.** Counting the months that the parent is employed undermines other incentives to work such as the higher earned income disregard, which would result in families staying on

assistance longer (because it will take longer for them to earn their way off assistance). Parents would be forced to choose between receiving assistance and meeting their family needs now and retaining potent months of future eligibility in case they become unemployed in the future.

- **Do not count any months prior to the enactment of time limits**, so that families can make informed choices on when or when not to apply for assistance.

e. Sanctions (SB 894 & HB 5444 amending MCLA 400.57d(1) and d(4); SB 893 & HB 5441 amending MCLA 400.57g(1) & (6))

- We continue to oppose a statutory increase in sanctions because such options are available under current law and harsher sanctions are not necessary to ensure compliance.
- Sanctions should apply only to employment- related activities and cooperation with child support enforcement. It may be appropriate to encourage and promote activities such as marriage counseling and parenting classes, but failure to participate in such activities should not result in children's benefits being stopped, unless the assigned activities are directly related to obtaining and retaining employment.
- There should be an early appeal process for resolving disputes about what activities will be assigned as part of the family's Plan, before there is noncompliance and possible sanctions.

f. Education and Training (SB 892 amendments to MCLA 400.57c(5) and new MCLA 400.57n in HB 5443.)

Our proposed amendments (appendix pages 25-29) seek to **retain some of the options that are available under current law** and to **ensure that there is adequate flexibility to tailor assignments to a participant's abilities** and **allow participants sufficient opportunity to accomplish approved employment goals**.

Assignments should be discretionary, rather than mandatory, to take into account all the circumstances in a community and for a family.

It is important to **maintain the current temporary allowance for parents to attend full time clinicals or internships required for their approved course of study** (*e.g.* teaching, nursing, etc.)

Furthermore, **we remain opposed to lifetime limits for education and training** purposes; however, **if lifetime limits of 24 months are imposed, it is critical that participants be able to count the hours needed to achieve the goal in the time allowed.** For example, to obtain an associate's degree or 2 year program in 24 months, they must be allowed to attend school full time. To establish 24 month lifetime limits and only allow participants to attend school part-time is to set them up for failure by cutting off their support halfway through achieving their degree.

Appendix